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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARTELL BLAND,

Defendant

Case No.: 2:21-cr-00287-JCM-EJY

**MOTION FOR PRE-PLEA
CALCULATION OF CRIMINAL
HISTORY**

COMES NOW, Defendant MARTELL BLAND, by and through his counsel of record, DUSTIN R. MARCELLO, ESQ., of the law firm of PITARO & FUMO, CHTD., hereby submits the attached Points and Authorities in support of Defendant's Motion Pre-plea Calculation of Criminal History

This Motion is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

DATED: June 6th, 2022

PITARO & FUMO, CHTD.

/s/ Dustin R. Marcello,
Dustin R. Marcello, Esq.
Nevada Bar No. 10134

MEMORADUM OF POINTS AND AUTHORITIES

I.
STATEMENT OF FACTS

On November 2, 2022, a Criminal Complaint was filed against MARTELL BLAND alleging one (1) Count of felon in possession of firearm under 18 U.S.C. 924 (d)(1) with 28 U.S.C. 2461 (c). The Parties are contemplating a plea but there is an open question whether Mr. BLAND qualifies as a career offender or has a criminal history that may double the recommendation for sentencing range, and the effect of his criminal history on the potential guideline range. Accordingly, it is respectfully requested that United States Department of Parole & Probation prepare a pre-plea calculation of Mr. BLAND criminal history category so that the Parties may successfully resolve the case.

II.
LEGAL ARGUMENT

A presentence investigation may be initiated prior to entry of a guilty plea or nolo contendere or prior to the establishment of guilt. See, Fed. R. Crim. P. 32.

Counsel requires a pre-plea presentence report to determine whether Mr. BLAND is potentially eligible for either Career Offender or Armed Career Criminal status.

Counsel understands that Mr. BLAND has prior felony convictions, however, Counsel cannot accurately calculate whether Mr. BLAND qualifies as a Career Offender or for the Armed Career Criminal ("ACCA") sentencing enhancements without the information that would be provided in the Pre-Plea PSR. Mr. BLAND' eligibility for Career Offender and the ACCA will drastically impact his sentencing exposure, potential negotiations, and his decision as to how he should proceed in this matter. In addition, the timing of Mr. BLAND' prior convictions could

1 impact his sentencing guideline range and criminal history score. A pre-plea presentence report
2 will promote judicial economy and could greatly expedite the manner in which this case is
3 resolved. Furthermore, Mr. BLAND consents to the pre-plea presentence investigation.
4

5 Counsel for Mr. BLAND has spoken to the Government, and the Government does not
6 oppose the instant motion.

7 Therefore, undersigned counsel respectfully requests this Court issue an Order directing
8 the United States Department of Parole & Probation to conduct a pre-plea presentence
9 investigation on Mr. BLAND.
10

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12 **III.**
CONCLUSION

13 Based on the foregoing, Defendant asks this Court to grant his Motion to Conduct a Pre-
14 Plea Presentence Report. Defendant further requests this Court order the United States
15 Department of Parole & Probation to conduct a pre-plea presentence investigation and prepare a
16 report for Mr. BLAND.
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19 DATED: June 6, 2022
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22 **PITARO & FUMO, CHTD.**

23 /s/ Dustin R. Marcello,
24 Dustin R. Marcello, Esq.
Nevada Bar No. 10134

25 **IT IS SO ORDERED.**

26
27 **Dated: June 6, 2022**

28 
UNITED STATES MAGISTRATE JUDGE